IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION NO :25465 of 2006

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Dated: 5th January 2007.

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Between:

Maruthi Traders,
Contractors of Sri Devi Mahalakshmi Rice Industries,
Jonnada, Alamuru Mandal, East Godavari District-533
233.

..... PETITIONER

AND

Deputy Commercial Tax Officer, Kothapeta, Mandapeta
Circle, Mandapeta, East Godavari District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

W.P.NO.25465 OF 2006

ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

This writ petition is filed with the prayer as follows:

> "For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue writ, order or direction, more particularly in the nature of Writ of Mandamus, declaring the seizure of stock of paddy 3615.05, Rice 1522.45 qunitals, is illegal, arbitrary an without jurisdiction, and (ii) Further, declare the order of confiscation of the goods dated 6.10.2006 issued by the
> 1st respondent, as illegal, void and inoperative and set aside the same and consequently direct the respondents to refund the sum of Rs.20,00,000/- to the petitioner, (iii) Declare collection of tax of Rs.5,05,678/- towards tax in respect of penultimate sales of Rice corresponding to exports as illegal and direct the respondent to refund the same to the petitioner and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

Notice before admission was issued on 08-12-2006.

The learned Government Pleader for Commercial Tax filed a counter on behalf of the respondents.

It may not be necessary to go into the factual details of the case except to state that by the impugned order, the rice in the premises in which the petitioner is staying, is confiscated.

One of the allegations of the petitioner is that such an order of confiscation was not preceded by a reasonable opportunity, either by way of a show-cause notice or a hearing. The principles of natural justice do require a reasonable opportunity to be given before any such order, adverse to the interests of the petitioner, is passed. Such a requirement is expressly laid down under Rule-53(4) of the A.P.V.A.T. Act. Undisputedly, it is established that the opportunity was denied.

In the circumstances, this Court has no option except to allow the writ petition at the stage of admission, quashing the impugned order dated 06-10-2006. However, this order does not prevent the respondents from initiating proceedings for the confiscation of the material seized by them, if they

are so advised, in accordance with law.

Insofar as the other prayers in the writ petition are concerned, we do not propose to grant any relief in this writ petition. It is open for the petitioners to pursue the remedies, if any, available to them under law.

Accordingly, the writ petition is allowed at the stage of admission.

J.Chelameswar, J

D.Appa Rao, J

5th January 2007
mrk